HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2) (b)

Description of the case.

W.P. No. 834 (MS) of 2006
Dinesh Mohan Singh

Vs.

Vice Chancellor G.B. University and others.

Approved for reporting.

_____

~~Not approved for reporting~~

Date of decision 28.07.2006.

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 834 of 2006 (MS)

Dinesh Mohan Singh s/o Sri Ramesh Chandra Pal, r/o D-257/1 Subhash Nagar, District Haridwar ..... Petitioner

Versus

1. Vice Chancellor, G.B. Pant University of Agriculture and Technology, Pantnagar, District Udham Singh Nagar
2. Registrar, G.B. Pant University of Agriculture and Technology, Pantnagar, District Udham Singh Nagar

..... Respondents

Sri Manoj Tiwari, Advocate for the petitioner

Sri Rajendra Dobhal, Advocate for the respondents.

Dated: 28.7.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Manoj Tiwari counsel for the petitioner and Sri Rajendra Dobhal counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 1.5.2006 passed by the respondent no. 2.

Briefly stated the petitioner appeared in All India Selection for admission to Bachelor of Veterinary Science and Animal Husbandry cousr (B.V.Sc. & A.H. course) in the respondent university. By virtue of merit the petitioner was selected for admission in B.V.Sc. & & A.H. course in the University and he was admitted against the free seat in the academic session 2003-04.

According to the petitioner his mother fell ill in October 2003 and since the petitioner is the only child of his parents, the petitioner had to go to Roorkee to look after his mother. Due to this he could not obtain marks in the examination still he scored Grade Point Average of 5.076 on 10 points scale. However, he could not clear some of the papers. The petitioner was readmitted in the said course in the academic Session 2004-05 and his performance in the 1st Semester examination held in December 2004, was above board. Further the father of the petitioner met with a road accident and he remained hospitalized for 23 days. The petitioner had to stay at Roorkee to look after his father and could not concentrate towards his study well and due to the aforesaid reasons, he was declared unsuccessful in two papers.

According to the Academic Regulations of the University, if a student fails in the annual/board examination as well as compartment examination for two consecutive academic years he may be finally dropped from the University.

Dropping from the University

i) If a student fails in the annual/board examination as well as compartment examination for two consecutive academic years/session in theory and/or practical in the first professional (first year) of B.V.Sc. & A.H. he/she shall be finally dropped from the University on account of poor academic performance."

The petitioner also approached this Court in Writ Petition No. 170 of 2006 (MS) which was disposed of on 15.5.2006, where there is a mention of paragraph 4 of the supplementary affidavit to the following effect:

"4. That as could be seen from the Academic Regulations, petitioner can be dropped from the University if he fails in the annual/board examination as well as compartment examination for two consecutive academic years. The petitioner, if given opportunity to appear in the compartment examination, could have easily passed in the papers in which he was declared unsuccessful, as he would have prepare only two papers instead of all six. The intention of the Regulation is clear that candidates, who are unable to pass even in compartment examination could be dropped from the University."

Counsel for the petitioner has pointed out that while deciding the representation dated 18.5.2006, it was not considered that the petitioner was not allowed to sit in the compartment examination and as such he could not have been finally dropped. From the aforesaid provision it is apparent that if a student fails in 4 attempts i.e. 2 annual examinations and two compartment examinations, only then he can be dropped.

Sri Rajendra Dobhal has filed a copy of notification dated 4th May 2006 in which the following provision has been made for Compartment Examination:

1. A student failing in a maximum of two papers only may be allowed once to appear in compartment examination for those paper(s). Compartment examination shall comprise of the external component of both the theory and practical of the failed paper(s) which shall constitute the 100% weightage for that paper(s) in case of B.V.Sc & A.H. and 100% theory for other programmes. Further the marks of internal examination shall not be considered for the evaluation of Compartment Examination.

According to the notification said revised rules are applicable for the Academic year 2005-06.

Considering the arguments of both the counsel, it is made clear that up till now, the petitioner is not permitted to sit in the compartment examination and as such he is entitled to sit in compartment examination. As the earlier regulation was completely silent for compartment examination, therefore, the petitioner can very well appear in the compartment examination.

The petitioner is a meritorious student but due to illness of his mother and accident of his father, he could not perform his examination well, therefore, he could not be allowed to suffer on account of any irregularity.. It is also a fact, which has not been denied from the other side that the father and mother of the petitioner were ill and the petitioner has to rush to Roorkee to look after them, as the petitioner is the only issue of his parents.

The petitioner has filed supplementary affidavit and has given names of four students who were permitted to appear in compartment examination in two subjects. Thus the petitioner is also entitled to appear in compartment examination on the ground of parity.

In view of above, a writ of mandamus is issued directing the respondents to permit the petitioner to appear in compartment examination or if the Vice Chancellor considers petitioner may re-admitted in the course for next academic session.

Accordingly, writ petition is allowed. No order as to costs.

Dated:28.7.2006

*Dhyani **Rajesh Tandon,J.**